

BANK INDONESIA REGULATION
NUMBER: 10/39/PBI/2008
CONCERNING
SPECIAL TREATMENT ON BANKING ISSUES
FOLLOWING THE NATIONAL DISASTER IN NANGGROE ACEH DARUSSALAM
PROVINCE
AND NIAS REGENCY, NORTH SUMATRA PROVINCE

WITH THE BLESSINGS OF GOD ALMIGHTY

GOVERNOR OF BANK INDONESIA

- Considering:
- a. whereas following the national disaster in Nanggroe Aceh Darussalam and Nias Regency, North Sumatra Province, it is necessary to conduct various measures to support the economic recovery;
 - b. whereas one measure to support the economic recovery in the region is the provision of special treatment for banking issues;
 - c. whereas based on considerations as referred to in letter a and letter b, it is deemed necessary to stipulate Bank Indonesia Regulation concerning Special Treatment on Banking Issues Following the National Disaster in Nanggroe Aceh Darussalam Province and Nias Regency, North Sumatra Province;
- In view of:
1. Act Number 7 of 1992 concerning Banking (State Gazette Number 31 of 1992, Supplement to the State Gazette Number 3472) as amended by Act Number 10 of 1998 (State Gazette Number 182 of 1998, Supplement to the State Gazette Number 3790);
 2. Act Number 23 of 1999 concerning Bank Indonesia (State Gazette of the Republic of Indonesia Number 66 of 1999, Supplement to the State Gazette of the Republic of Indonesia Number 3843) as latest amended by Act Number 6 of 2009 concerning Stipulation of Government Regulation In Lieu of Law Number 2 of 2008

- concerning Second Amendment of Act Number 23 of 1999 concerning Bank Indonesia to become Law (State Gazette of the Republic of Indonesia Number 7 of 2009, Supplement to the State Gazette of the Republic of Indonesia Number 4962);
3. Act Number 48 Year 2007 concerning Provision of Government Regulation as substitution of Act Number 2 of 2007 concerning Treatment for Legal Issues in purpose of Enacting an Act for Rehabilitation and Reconstruction of Region and Community Life in Nanggroe Aceh Darussalam Province and Nias Island, North Sumatra Province (State Gazette of the Republic of Indonesia Number 168 of 2007, Supplement to the State Gazette of the Republic of Indonesia Number 4796);
 4. Act Number 21 Year 2008 concerning Sharia Banking (State Gazette of the Republic of Indonesia Year 2008 Number 94, Supplement to State Gazette of the Republic of Indonesia Number 4867);

HAS DECREED:

To enact: BANK INDONESIA REGULATION CONCERNING SPECIAL TREATMENT ON BANKING ISSUES FOLLOWING THE NATIONAL DISASTER IN NANGGROE ACEH DARUSSALAM PROVINCE AND NIAS REGENCY, NORTH SUMATRA PROVINCE

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Article 1

The terminology used in this Bank Indonesia Regulation has the following meanings:

1. Bank is a Commercial Bank and Rural Bank as defined in Act Number 7 of 1992 concerning Banking, as amended by Act Number 10 of 1998, including a branch office of a foreign bank, or Islamic commercial bank and Islamic rural bank as referred to in Act Number 21 of 2008 concerning Islamic Banking.

2. Credit is the provision of funds or equivalent claims based on a loan agreement or contract between bank and another party requiring the borrowing party to repay the debt at a specified term with interest includes:
 - a. overdraft, namely negative balance in a customer demand deposit that is unrepayable at end-of-day;
 - b. takeover of claims within the framework of factoring;
 - c. takeover or purchase of credit from other parties.
3. Islamic financing which hereinafter referred to Financing is the provision of funds or an equivalent claimsof:
 - a. Profit sharing transactions in the form of *mudharabah* and *musyarakah*;
 - b. Lease transactions in the form of *ijarah* or lease purchase in the form of *ijarahmuntahiyabittamlik*;
 - c. Sale and purchase transactions in the form of outstanding *murabahah*, *salam* and *istishna'*;
 - d. Lending transactions in the form of outstanding qardh; and
 - e. Lease service transactions in the form of *ijarah*for multiple services transactions; based on agreement between the Islamic Bank and / or Islamic Business Unit with other party obligating the party receiving funds and / or givenfunding facility to return such funds after a certain period with *ujrah* compensation, without compensation, or profit sharing.
4. Deposit is deposit as referred to in Act Number 7 of 1992 concerning Banking, as amended by Act Number 10 of 1998 or Act Number 21 of 2008 concerning Islamic Banking;
5. Investments are funds entrusted by Customer to the Islamic Bank and / or Islamic Business Unit based on Akadmudharabah or other Akadswwhich are not contradictory with the Islamic Principles in the form of Time Deposits, Savings Accounts, or other compatible forms;
6. Guardian is persons or entities who exercise authority as parentsto children;
7. Baitul Mal is the Islamic Institute at Nanggroe Aceh Darussalam Province which authorized to maintain, preserve, develop, and manage assets for the purpose of benefiting the people as well as becoming trustee based on Islamic Sharia;
8. Treasure Hall Relics is the institution under Department of Law and Human Rights which manages custody, Guardianship, absenteeism, neglected inheritance, testament deed registration, certificate of inheritance, and bankruptcy for non-Muslim in Nanggroe

Aceh Darussalam Province or both Muslim and non-Muslim in Nias Regency, North Sumatra;

9. Court is Sharia district / city court in Nanggroe Aceh Darussalam Province, Religion Court in Nias Island, North Sumatra for Muslims or District Court for non-Muslims.

Article 2

- (1) At the request of the customers or their heirs / Guardians, bank can issue a new ownership certificate on Deposits / Investment after validating identity of the customer or their heirs / Guardians.
- (2) Issuance of new ownership certificate on Deposits / Investment as referred to in paragraph (1) is adapted to the bank procedures and recordings.
- (3) Confidence in the validity of identity of the customer or their heirs / Guardians as referred to in paragraph (1), can be obtained by:
 - a. Requesting customer or their heirs / Guardians to fill the forms of bank customer's identification; and
 - b. Requesting statement of heirs / Guardians issued by Court when the person who filed is the customer's heir / Guardians.
- (4) The provisions as considered in paragraph (1) and paragraph (3) is also applicable to banks in serving withdrawal of funds by customers or their heirs / Guardians which are not supported with complete documents with due regard to prudential principles.

Article 3

- (1) In the case of disappearance of customers' deposits / investment records and customers or their heirs / Guardians can show the ownership certificate, bank accordingly keep records after convincing the validity or authenticity of the ownership certificate.
- (2) Confidence in the validity or authenticity of the ownership certificate of Bank Deposits / Investments can be obtained by means:
 - a. Bank checks the validity and / or authenticity of the Deposits / Investments books or bank statements, the amount of Deposits / Investments, and authorization of the Bank authorities / officers;
 - b. Bank requests statement of heirs / Guardians issued by Court when the person who filed is the customer's heir / Guardians.

Article 4

- (1) In case the presence of customers or their heirs / Guardians is unknown, Bank handed the Deposits / Investments to the Baitul Mal or Treasure Hall Relics after obtaining stipulation of the Court.
- (2) The handing of customer's Deposits / Investments as referred to in paragraph (1) is conducted by Bank after going through the following steps:
 - a. checking the Deposits / Investments accounts which alleged that the customers or their heirs / Guardians may no longer exist.
 - b. announcing the names and addresses of customers as referred to in letter a at least 3 (three) times up to September 06, 2009;
 - c. announcement as referred to in letter b is conducted :
 1. Through local scale Indonesian newspapers which have wide circulation in Nanggroe Aceh Darussalam Province and Nias Regency, North Sumatra Province at least 2 (two) times and;
 2. Through national scale Indonesian newspapers at least 1 (one) times;
 - d. make an announcement as referred to in letter c to be published in Regional News for the announcements in local newspapers and in State News for the announcement in national newspaper; and
 - e. apply for stipulation to the Court as referred to the handing of Deposits / Investments in paragraph (1).
- (3) The announcement of the name and address of customers by the Bank as referred to in letter b and c of paragraph (2) are exempted from the provisions of laws regulating the confidentiality of bank.

Article 5

In order to serve customer's withdrawals and submission of Deposits / Investments as referred to in Article 2 paragraph (4) and Article 4 paragraph (1), Bank accounts for customer's advance Deposits / Investments with the Obligation of Credit or Financing, and other facilities that have not been settled by the customer.

Article 6

- (1) For customers or their heirs / Guardians which are not existed, the submission of their Deposits / Investments by the bank to Baitul Mal or Treasure Hall Relics did not removed the rights of collecting the Deposits / Investments.
- (2) Bank is exempted from lawsuits over submission of Deposits / Investments as referred to in Article 4 paragraph (1) and paragraph (2).

Article 7

- (1) In terms of land mortgaged to the bank is destroyed and the relevant debtor is unable to resolve his/her obligations to the bank, the settlement will be based on policy of the bank.
- (2) The policy of bank in resolving loans as referred to in paragraph (1) must consider financial condition of the bank.

Article 8

- (1) In terms of documents relating to hypothecation that has been registered are lost or damaged by earthquake and tsunami, Bank filed a replacement document for land rights and its hypothecation to the local National Land Agency.
- (2) Procedures for filing a replacement document as referred to in paragraph (1) are subject to prevailing legislation.

Article 9

By issuing a replacement documents relating to a registered hypothecation which are lost, damaged or destroyed, Bank Indonesia informed Land Office concerning the land collateralized to the bank.

Article 10

In terms of Bank office building is damaged thus it is temporarily can not be used, the Bank management can relocate to a more secure place in one area of the city / county and reported the relocation to Bank Indonesia.

Article 11

Any actions that have been taken to handle banking issues following national disaster in Nanggroe Aceh Darussalam Province and Nias Regency, North Sumatra before the enactment of this Bank Indonesia Regulation are considered the implementation of this Bank Indonesia Regulation as long as conducted in prudential principles and good faith.

Article 12

This Bank Indonesia Regulation shall come into effect as of the date of enactment.

For the purpose of public cognizance, it is ordered that this Bank Indonesia Regulation be promulgated in State Gazette of the Republic of Indonesia.

Enacted in Jakarta

On December 24, 2008

GOVERNOR OF BANK INDONESIA

BOEDIONO

Promulgated in Jakarta

On December 24, 2008

MINISTER OF LAW AND HUMAN RIGHTS

REPUBLIC OF INDONESIA

ANDI MATTALATTA

STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2008 NUMBER 204

DPNP

ELUCIDATION
ON
BANK INDONESIA REGULATION
NUMBER: 10/39/PBI/2008
CONCERNING
SPECIAL TREATMENT ON BANKING ISSUES
FOLLOWING THE NATIONAL DISASTER IN NANGGROE ACEH DARUSSALAM
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I. GENERAL REVIEW

As widely reported, the natural disaster on December 26, 2004 that struck Nanggroe Aceh Darussalam Province and Nias Regency North Sumatra Province is understood to have brought disruption to the Indonesian economy, particularly in disaster-hit areas. Specifically in banking sector, has resulted in obstacles on the service function due to loss of documents regarding Deposits / Investments, identity of customers, and not knowing the presence of the customers or their heirs / Guardians, as well as the settlement of loan especially in relation to debtors whose deposits in the bank and / or the collateral of land being destroyed.

In this regard, based on mandatory of Act Number 48 Year 2007 concerning Provision of Government Regulation as substitution of Act Number 2 of 2007 concerning Treatment for Legal Issues in purpose of Enacting an Act for Rehabilitation and Reconstruction of Region and Community Life in Nanggroe Aceh Darussalam Province and Nias Regency, North Sumatra Province, Bank Indonesia deems it is necessary to issue provision of special treatment on banking sector in order to provide clarity for banks and customers to resolve issues relating to Deposits / Investments and loans to support the economic recovery in Nanggroe Aceh Darussalam Province and Nias Regency, North Sumatra Province.

II. ARTICLE BY ARTICLE

Article 1

Self-explanatory.

Article 2

Paragraph (1)

A new ownership certificate onDeposits / Investments includes passbook, deposits biljet, and bank statements.

Paragraph (2)

The records in bank includes recording of Deposits / Investments amount.

Paragraph (3)

Letter a

To be confidence with the data in the form of bank customer's identification, Bank can perform further identification by interviewing, taking fingerprints, and / or documentation or photos of customers.

Letter b

Self-explanatory.

Paragraph (4)

The term "prudential principles" includes setting a limit on the maximum value and frequency of withdrawals.

Withdrawals which are not supported by complete documents, such as withdrawals by the heirs / Guardians who are not accompanied by power of attorney or who are unable to show ownership certificate onDeposits / Investments.

Article 3

Paragraph (1)

An ownership certificate onDeposits / Investments includes passbook, deposits biljet, and bank statements.

Paragraph (2)

Self-explanatory.

Article 4

Paragraph (1)

Self-explanatory.

Paragraph (2)

Letter a

Self-explanatory.

Letter b

The announcement of the name and address of customers is intended to provide an opportunity for customers or their heirs / Guardians to submit claims for their Deposits / Investment them. In addition it is intended to strengthen the Bank confidence that customers or their heirs / Guardians may no longer exist.

Letter c

Self-explanatory.

Letter d

Self-explanatory.

Letter e

Self-explanatory.

Paragraph (3)

Self-explanatory.

Article 5

The Obligation of Credit or Financing includes interest expense and other expenses obliged in accordance with the agreement.

Article 6

Paragraph (1)

Customers or their heirs / Guardians remain able to collect their Deposits / Investments to Baitul Mal or Treasure Hall Relics by meeting the requirements of Baitul Mal or Treasure Hall Relics.

Paragraph (2)

Banks are exempted from liabilities when they have performed undertakings as referred to in Article 4 paragraph (1) and paragraph (2).

Article 7

Self-explanatory.

Article 8

Paragraph (1)

The terms “documents” includes land certificates, hypothecation certificates, and other relevant certificates.

Paragraph (2)

Self-explanatory.

Article 9

Information provided by the Bank is intended to avoid duplication in the issuance of hypothecation documents relating to the land collateralized to the bank.

Article 10

Self-explanatory.

Article 11

Self-explanatory.

Article 12

Self-explanatory.

SUPPLEMENT TO STATE GAZETTE OF THE REPUBLIC OF INDONESIA NUMBER
4949